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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,363	10/30/2003	Wayne H. Hanson	1-24778	7882

4859 7590 02/23/2006

MACMILLAN SOBANSKI & TODD, LLC  
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TOLEDO, OH 43604-1619

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,363	<b>Applicant(s)</b> HANSON ET AL.	
	<b>Examiner</b> Joseph F. Edell	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3,4,6,14,15 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,4,6,14,15 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 November 2005 has been entered.

### ***Specification***

2. The amendment filed 22 November 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the amendment to paragraph 32 stating that the vehicle user does not have motor control and the movement of the seating system can occur without requiring manual operation by the user.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 3, 4, 6, 14, 15, and 20-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claims 20 and 22 recite "the leg support being mounted in a manner that causes the leg support to pivot automatically as the seat back reclines." However, the specification and the teachings of the drawings do not describe a structural relationship between the seat back and leg support wherein reclining of the seat back automatically pivots the leg support. Page 9, paragraph 32 of the specification recites that "during toning, the user's muscles tense and the user straightens out." Also, page 9, paragraph 33 of the specification recites that as "the seat tray extension 38 slides forward, the seat back extension 66 reclines and the leg support 22 pivots automatically at the knee joint of the user. This movement allows the user to tone into full extension without placing undue stress on the mechanical components of the seating system 30." While the specification recites the leg support pivots automatically at the knee joint of the user, this appears to merely set forth that the leg support pivots outwardly during toning by the user. Also, the specification only enables one skilled in the art to make a seating system with the leg support being mounted by mounting arms 39 (Fig. 3), and does not set forth how such automatic movement is effected by reclining of the seat back. Therefore, there are no structural

features described in the specification to enable one skilled in the art to make the claimed the leg support mounted to pivot automatically as the seat back reclines.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 3, 4, and 20-23, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,488,332 B1 to Markwald.

Markwald discloses a seating system that includes all the limitations recited in claims 3, 4, and 20-23, as best understood. Markwald shows a seating system having a base 4 (see Fig. 1), a seat tray 7, a sliding mechanism 17 configured to mount the seat tray and limits sliding movement of the seat tray to substantially horizontal movement, a seat back 8 pivotally mounted relative to the seat tray at a seat back pivot point, a leg support 10 pivotally mounted with respect to the seat and depending from the seat tray, and a biasing element 14 connected relative to the base and the seat tray and configured to store energy and have a damping effect upon application of force by a user to move the seat tray forward and a configured to release energy when the user relaxes to automatically move the seat tray rearward wherein the sliding mechanism is

configured with sufficiently low friction to enable the user to experience extension tone with little resulting resistance to the forward movement of the seat tray and little resulting resistance to pivoting of the leg support, and the seating system is configured for forward movement of the seat tray and pivoting of the leg support caused by tone extension of the user without requiring manual operation (see column 4, lines 3-36).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 14, 15, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markwald in view of U.S. Patent No. 327,775 to Dodge.

Markwald discloses a seating system that is basically the same as that recited in claims 6, 14, 15, 24, and 25 except that the seat back lacks a back support member moving downward and a locking mechanism, as recited in the claims. See Figures 1 and 2 of Markwald for the teaching that the seat back is connected to a back support member pivotally connecting the seat back to the base. Dodge shows a seating system similar to that of Markwald wherein the seating system has a base *E* (see Fig. 1), a seat back *A* connected to a back support member *H* such that downward movement of the back support member in a substantially vertical direction causes the seat back to pivot at the seat tray to recline the seat back, and a locking mechanism *a* supported with

respect to the base. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Markwald such that the seat back is connected to a back support member wherein downward movement of the back support member in a substantially vertical direction with respect to the base causes the seat back to pivot at the seat tray to recline the seat back and causing the seat tray to slide forward with respect to the base, and a locking mechanism supported with respect to the base. One would have been motivated to make such a modification in view of the suggestion in Dodge that the seat back configuration provides a slideably adjustable seat back that is removably coupled to the base.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 3, 4, 6, 14, 15, and 20-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

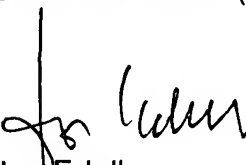
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell  
February 19, 2006